

REMARKS

This Application has been carefully reviewed in light of the Final Office Action dated June 11, 2009 ("*Office Action*"). At the time of the *Office Action*, Claims 1-6, 8-18, and 21-23 were pending and rejected in the Application. Applicants have amended Claim 13. Applicants previously canceled Claims 7, 19, and 20. Applicants submit that no new matter is added by these amendments. As described below, Applicants believe all claims to be allowable over the cited references. Therefore, Applicants respectfully request reconsideration and full allowance of all pending claims.

Section 101 Rejection

The Examiner rejects Claims 13-16 under 35 U.S.C. § 101 because the claimed invention is directed to nonstatutory subject matter.

Independent Claim 13, as amended, is directed to a system for automatically deploying program units to a cluster of networked servers that comprises "an application server cluster comprising a set of a plurality of application servers" wherein "each application server running on a different host machine that comprises a processor." The system also includes "a network deployment server running on a deployment processor in communication with the application server cluster." Claim 13 also recites "at least one data store." Accordingly, Claim 13 recites computer-related elements that relate to one or more "machines." Therefore, the system recited in Claim 13 constitutes statutory subject matter under 35 U.S.C. § 101 according to the applicable case law.

Applicants respectfully request that the rejection of Claims 13-16 under 35 U.S.C. § 101 be withdrawn.

Section 103 Rejections

The Examiner rejects Claims 1-6, 8-18, and 21-23 under 35 U.S.C. § 103(a) as being unpatentable over "BEA Web Logic Portal Deployment Guide," Version 4.4, May 2002 ("*BEA*") in view of U.S. Patent No. 7,080,361 issued to Aigen ("*Aigen*").

Independent Claim 1 of the present Application, as currently and previously presented, recites:

A method of automatically deploying program units to a cluster of networked servers, comprising:

assembling one or more program units for deploying to a cluster of one or more application servers;

retrieving type information related to the cluster of networked servers from a deployment server, the type information identifying a type of application server installed on one or more nodes to which to deploy the program units;

automatically, and without user input, generating a script to use a specific utility of the application server for generation of deployment descriptors from the information retrieved from the deployment server, the deployment descriptors suitable for the type of application server; and

deploying the one or more program units to the cluster of the one or more application servers using at least the deployment descriptor.

Applicants respectfully submit that the cited references do not disclose the combination of claim elements recited in Claim 1.

For example, the proposed *BEA-Aigen* combination does not disclose, teach, or suggest “retrieving type information . . . from a deployment server, the type information identifying a type of application server installed on one or more nodes to which to deploy the program units” and “automatically, and without user input, generating a script to use a specific utility of the application server for generation of deployment descriptors from the information retrieved from the deployment server, the deployment descriptors suitable for the type of application server,” as recited in Claim 1. In the *Office Action*, the Examiner acknowledges that *BEA* does not disclose the recited claim elements and instead relies upon *Aigen*. (*Office Action*, page 5). Applicants disagree, however, with the Examiner’s finding that *Aigen* cures the deficiencies of *BEA*.

Aigen specifically discloses that a user “specifies . . . the application server on which the application will be run.” (*Aigen*, Column 3, lines 40-42). Thus, an initial point of distinction, Applicants note that *Aigen* merely discloses that a user specifies the particular server. *Aigen* does not disclose “**retrieving** type information . . . **from a deployment server**,” as recited in Claim 1. Additionally, because *Aigen* only discloses that the user specifies the specific server and not the type, *Aigen* also does not disclose that

“the type information identif[ies] a type of application server installed on one or more nodes to which to deploy the program units,” as recited in Claim 1.

As an additional point of distinction, *Aigen* discloses that after the user identifies the server, the Bean Grinder is invoked to convert database files to Enterprise JAVA Beans. (*Aigen*, Column 3, lines 42-46; Column 2, lines 63-65). More specifically, the Bean Grinder produces the following “auxiliary files”:

. . . [A] descriptor file 63 (DescriptorFile) generates an XML deployment descriptor, a batch file 64 (JarBatFile) generates batch script to compile JAVA into CLASS files and compress the CLASS files in a JAR file and an AGCommand 65 generates commands to import and deploy the EJB JAR file into a particular application server. AGCommand is one of two classes which produce data to assist in integrating the EJB's into a particular application server. The other is AGDeploy which generates a supplemental XML deployment file for a specific application server.

(*Aigen*, Column 4, lines 6-18). Thus, because *Aigen* discloses that a descriptor file generates a deployment descriptor after receiving user input, the deployment descriptor is not generated “automatically, without receiving user input,” as recited in Claim 1. Additionally, the cited portion merely discloses that a descriptor file generates a deployment descriptor and a batch file generates a batch script. *Aigen* does not disclose “generating a script to use a specific utility of the application server for generation of deployment descriptors,” as recited in Claim 1.

Furthermore, because *Aigen* discloses that AGCommand or AGDeploy files must be generated for the “specific application server,” *Aigen* indicates that a generic deployment descriptor and a generic batch script are generated. It is the AGCommand and/or AGDeploy files that allow the EJB's to be integrated into the particular applications server. Accordingly, *Aigen* and the proposed *BEA-Aigen* combination does not disclose, teach, or suggest “automatically, and without user input, generating a script to use a specific utility of the application server for generation of deployment descriptors from the type information retrieved from the deployment server, the deployment descriptors suitable for the type of application server,” as recited in Claim 1.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 1, together with Claims 2-10, and 17-19 that depend on Claim 1. For analogous reasons, Applicants also request reconsideration and allowance of independent Claims 11 and 13, together with Claims 12 and 20 that depends on Claim 11 and Claims 14-16 that depend on Claim 13.

No Waiver

Additionally, Applicants have merely discussed example distinctions from the references cited by the Examiner. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the Examiner's rejections.

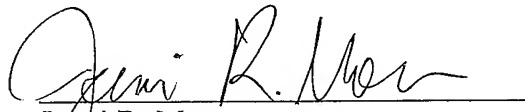
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorney for Applicants, at the Examiner's convenience at (214) 415-4820.

Applicants believe that no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants


Jenni R. Moen
Reg. No. 52,038

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Correspondence Address:

at Customer No. **05073**